

## Nuclear Regulatory Commission

## § 2.1013

(iii) The LSN Administrator on solutions to improve the functioning of the LSN;

(2) The responsibilities of the LSN Advisory Review Panel shall include advice on—

(i) Format standards for providing electronic access to the documentary material certified by each participant to be made available in the LSN to the other parties, interested governmental participants, or potential parties;

(ii) The procedures and standards for the electronic transmission of filings, orders, and decisions during both the pre-license application phase and the high-level waste licensing proceeding;

(iii) Other duties as specified in this subpart or as directed by the Secretary of the Commission.

[63 FR 71739, Dec. 30, 1998, as amended at 66 FR 29466, May 31, 2001]

### § 2.1012 Compliance.

(a) If the Department of Energy fails to make its initial certification at least six months prior to tendering the application, upon receipt of the tendered application, notwithstanding the provisions of § 2.101(f)(3), the Director of the NRC's Office of Nuclear Material Safety and Safeguards will not docket the application until at least six months have elapsed from the time of certification. The Director may determine that the tendered application is not acceptable for docketing under this subpart if the application is not accompanied by an updated certification pursuant to § 2.1009(b), or if the Secretary of the Commission determines that the application cannot be effectively accessed through the Commission's electronic docket system.

(b)(1) A person, including a potential party given access to the Licensing Support Network under this subpart, shall not be granted party status under § 2.1014, or status as an interested governmental participant under § 2.715(c), if it cannot demonstrate substantial and timely compliance with the requirements of § 2.1003 at the time it requests participation in the high-level waste licensing proceeding under § 2.1014 or § 2.715(c).

(2) A person denied party status or interested governmental participant status under paragraph (b)(1) of this

section may request party status or interested governmental participant status upon a showing of subsequent compliance with the requirements of § 2.1003 of this subpart. Admission of such a party or interested governmental participant under § 2.1014 of this subpart or § 2.715(c) of this part, respectively, shall be conditioned on accepting the status of the proceeding at the time of admission.

(c) The Presiding Officer shall not make a finding of substantial and timely compliance pursuant to paragraph (b) of this section for any person who is not in compliance with all applicable orders of the Pre-License Application Presiding Officer designated pursuant to § 2.1010.

[54 FR 14944, Apr. 14, 1989, as amended at 56 FR 7796, Feb. 26, 1991; 63 FR 71739, Dec. 30, 1998; 66 FR 29466, May 31, 2001]

### § 2.1013 Use of the electronic docket during the proceeding.

(a)(1) Pursuant to § 2.702, the Secretary of the Commission will maintain the official docket of the proceeding on the application for a license to receive and possess waste at a geologic repository operations area.

(2) Commencing with the docketing in an electronic form of the license application to receive and possess high-level radioactive waste at a geologic repository operations area pursuant to part 60 or 63 of this chapter, the Secretary of the Commission, upon determining that the application can be properly accessed under the Commission's electronic docket rules, will establish an electronic docket to contain the official record materials of the high-level radioactive waste licensing proceeding in searchable full text, or, for material that is not suitable for entry in searchable full text, by header and image, as appropriate.

(b) Absent good cause, all exhibits tendered during the hearing must have been made available to the parties in electronic form before the commencement of that portion of the hearing in which the exhibit will be offered. The electronic docket will contain a list of all exhibits, showing where in the transcript each was marked for identification and where it was received into evidence or rejected. Transcripts will be

entered into the electronic docket on a daily basis in order to provide next-day availability at the hearing.

(c)(1) All filings in the adjudicatory proceeding on the license application to receive and possess high-level radioactive waste at a geologic repository operations area pursuant to part 60 or 63 of this chapter shall be transmitted electronically by the submitter to the Presiding Officer, parties, and the Secretary of the Commission, according to established format requirements. Parties and interested governmental participants will be required to use a password security code for the electronic transmission of these documents.

(2) Filings required to be served shall be served upon either the parties and interested governmental participants, or their designated representatives. When a party or interested governmental participant has appeared by attorney, service must be made upon the attorney of record.

(3) Service upon a party or interested governmental participant is completed when the sender receives electronic acknowledgment (“delivery receipt”) that the electronic submission has been placed in the recipient’s electronic mailbox.

(4) Proof of service, stating the name and address of the person on whom served and the manner and date of service, shall be shown for each document filed, by—

- (i) Electronic acknowledgment (“delivery receipt”);
- (ii) The affidavit of the person making the service; or
- (iii) The certificate of counsel.

(5) All Presiding Officer and Commission issuances and orders will be transmitted electronically to the parties and interested governmental participants.

(d) Online access to the electronic docket, including a Protective Order File if authorized by a Presiding Officer, shall be provided to the Presiding Officer, the representatives of the parties and interested governmental participants, and the witnesses while testifying, for use during the hearing. Use of paper copy and other images will also be permitted at the hearing.

[63 FR 71739, Dec. 30, 1998, as amended at 66 FR 55788, Nov. 2, 2001]

**§ 2.1014 Intervention.**

(a)(1) Any person whose interest may be affected by a proceeding on the application for a license to receive and possess high-level radioactive waste at a geologic repository operations area pursuant to part 60 or 63 of this chapter, and who desires to participate as a party, shall file a written petition for leave to intervene. In a proceeding noticed pursuant to § 2.105, any person whose interest may be affected may also request a hearing. The petition and/or request, and any request to participate under § 2.715(c), shall be filed within thirty days after the publication of the notice of hearing in the FEDERAL REGISTER. Nontimely filings will not be entertained absent a determination by the Commission, or the Presiding Officer designated to rule on the petition and/or request, that the petition and/or request should be granted based upon a balancing of the following factors, in addition to satisfying those set out in paragraphs (a)(2) and (c) of this section:

- (i) Good cause, if any, for failure to file on time;
- (ii) The availability of other means whereby the petitioner’s interest will be protected;
- (iii) The extent to which the petitioner’s participation may reasonably be expected to assist in developing a sound record;
- (iv) The extent to which the petitioner’s interest will be represented by existing parties;
- (v) The extent to which the petitioner’s participation will broaden the issues or delay the proceeding.

(2) The petition shall set forth with particularity—

- (i) The interest of the petitioner in the proceeding, and how that interest may be affected by the results of the proceeding, including the reasons why petitioner should be permitted to intervene, with particular reference to the factors in paragraph (c) of this section;
- (ii) A list of the contentions that petitioner seeks to have litigated in the matter;
- (iii) With respect to each contention:
  - (A) A specific statement of the issue of law or fact to be raised or controverted.